IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR

WRIT PETITION NO. 3044 **/2003**

PETITIONER

1. V.S. Goutam S/o Sri K.S. Goutam aged about 44yrs, Occu-Clerk-Cum-Cashier Bilaspur Raipur Kshetriya Gramina Bank, KORBA BRANCH, R/o Qtr. No. B-1145, Krishna Vihar, Jamni Pali, Korba (C. G.)

P. R. No. 29103
Presented by Shri P. C. Tiwari
dated 21.09.03

VERSUS

RESPONDENTS

1. Chairman Bilaspur Raipur Kshetriya Gramina Bank, Head Office Bilaspur (C.G.)

2. Personal Manager Bilaspur-Raipur, Kshetriya Gramina Bank, Head Office Bilaspur (C.G.)

3. General Manager Bilaspur-Raipur, Kshetriya Gramina Bank, Head Office Bilaspur (C.G.)

शपथ आयुक्त
रा.के. शुक्ला
20495
बिलासपुर तहसील कोर्ट

WRIT PETITION UNDER ARTICLES 226/227 OF THE CONSTITUTION OF INDIA IN THE NATURE OF MANDAMUS AND CERTIORARI.

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HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition No.3044 of 2003

V.S. Goutam

Versus

Chairman, Bilaspur Raipur Kshetriya Gramin Bank and others

POST FOR ORDER ON *1st JANUARY, 2004*

Sd/-
L.C.BHADOO
Judge

31.12.2003

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HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition No.3044 of 2003

V.S. Goutam

Versus

Chairman, Bilaspur Raipur Kshetriya Gramin Bank and others

Present: -

Mrs. Hamida Siddque, Advocate: For the petitioner

Miss Pritha Ghoshal, Advocate: For the respondents

Before: Hon'ble Shri Justice L.C. Bhadoo

O R D E R

(Passed on 1st January, 2004)

1. Petitioner V.S. Goutam who was working as Clerk-cum-Cashier in Bilaspur Raipur Kshetriya Gramin Bank, Korba Branch, has by this writ petition under Article 226/227 of the Constitution of India, questioned his transfer order dated 15th September, 2003, whereby he has been transferred from Korba Branch to Hasaud Branch.

2. The main grievance of the petitioner is that he has been transferred with a mala fide intention and in a vindictive manner contrary to the transfer policy, because the petitioner being a Secretary of the Staff Union used to raise employees' issues and in that connection he had filed writ petitions namely, W.P.Nos.962/2002 & 2522/2001 for raising salary and other allowances and also for grant of increments. His further case is that his two children are studying in the Central School, Jamnipali, Korba, and he has been transferred in mid session, whereas, as per the general policy the transfers are to be affected in between the months of April and June. Normally, a Clerk-cum-Cashier, as per the transfer policy, is allowed to work up to five years in one branch.

3. On the other hand, the respondents in their return have specifically denied that the petitioner has been transferred on a malafide ground or in order to victimize the petitioner. The petitioner has been transferred on the ground of administrative exigency, not only the petitioner, but in all 18 other Clerk-cum-Cashiers have been transferred on account of administrative exigency from one branch to another. The policy upon which the petitioner has placed reliance has not been approved by the Bank Board. The transfers are made as per Bilaspur Raipur Kshetriya Gramin Bank Officers' & Employees' Service Rules, 2001 and transfer policy dated 18.11.1988, according to which the maximum period for a Clerk-cum-Cashier to work in a particular branch is three years, not five years. The facts alleged in the petition are misleading. Out of 23 years service in the Bank, the petitioner was regularly working for twenty years in various branches nearby Jamnipali of Korba District. The petitioner's wife is working in Indo Berman Petroleum Company Limited, Jamnipali, and the children are staying with the wife of the petitioner. Moreover, the new place of posting of the petitioner is not at a far of place and the petitioner being a Secretary of the Staff Union can pursue the cases pending in the High Court at Bilaspur as both the places i.e. Korba & Hasaud are at a distance of 100-115 Kms. from Bilaspur and from both the places Bilaspur is well connected. Moreover, the petitioner had already completed more than two years and eight months at Jamnipali, Korba Branch, therefore, the transfer of the petitioner is mature transfer as per policy and the same has been affected on administrative exigency. Therefore, the petitioner's petition be dismissed.

4. I have heard Mrs. Hamida Siddique, counsel for the petitioner and Miss Pritha Ghoshal, counsel for the respondents.

5. Learned counsel for the petitioner argued on the points almost raised in the petition and submitted that as per the policy the petitioner ought

to have been allowed to continue for five years and since the petitioner was always raising the issues before the Bank in the interest of the employees as a General Secretary of the Staff Union, he has been transferred on mala fide ground.

6. On the other hand, learned counsel for the respondents argued that the petitioner has been transferred on the administrative exigency.

7. It is an admitted position that the petitioner was working at Jamnipali Branch on the post of Clerk-cum-Cashier since 11.01.2001 and thereby, he was working since last more than two years and eight months. Annexure P-3 is copy of the transfer policy upon which the learned counsel for the petitioner has placed reliance. This document itself was sent for suggestion and approval by the General Manager (Personnel) to the Chairman of the Bank. In this document itself it has been mentioned that the transfer policy was approved on 18.11.1988 by the Executive Body of the Bank and as per the new proposal the maximum term of posting of a Clerk-cum-Cashier was suggested as five years, but as per the approved policy dated 18.11.1988 it was three years. As per the return filed by the respondents this proposal has not been received approval so far. Therefore, the contention of the counsel for the petitioner that as per the Bank policy, the petitioner ought to have been allowed to work for five years is without any force. Even otherwise, this period is the maximum period for an employee and even before completion of that period the Bank was within its right to transfer any employee on the ground of administrative exigency. As has been mentioned in the return, the petitioner along with other eighteen Clerk-cum-Cashiers were transferred and the petitioner had already completed two years and eight months at one station. Moreover, it has been mentioned that out of total 23 years' service of the petitioner, for twenty years the petitioner remained in the nearby area of Jamnipali and the present place of posting is also not at a far

of place, it is 110 Kms. from the place of posting of his wife who is an employee of Indo Berman Petroleum Company Limited. As far as the points raised by the learned counsel for the petitioner that the petitioner is Secretary of the Staff Union and he is regularly raising demands of the staff before the authorities that is why he has been transferred, but in order to establish and substantiate this allegation the petitioner has not been able to place any material before the Court that the petitioner's transfer is mala fide and in order to harass him. There is no rule or regulation which lays down that the office bearer of the Staff Union will not be transferred and moreover the petitioner has completed more than two years and eight months at once place and the petitioner along with 18 Clerk-cum-Cashiers had been transferred and there is nothing on record which shows that the petitioner has been transferred on mala fide ground. Therefore, there is no substance in this allegation that the petitioner has been transferred on mala fide grounds. As far as children education is concerned, petitioner's wife is a working lady and she is an employee of Indo Berman Petroleum Company Limited at Jamnipali. Therefore, she is able look after the children and more over the petitioner's place of posting is at a distance of 110 Kms., he can also go and look after his children on holidays.

8. It is settled law that transfer of an employee is an incident of service. Unless the transfer is mala fide and contrary to statutory rules or policy, the same cannot be challenged as the employer can transfer its employees on the ground of administrative exigency and employee cannot claim particular place of posting and tenure of posting as has been discussed in the previous part of this order. On the facts, the petitioner has not been able to make out a case for judicial review.

9. In view of the above, I am of the opinion that the petitioner is not able to make out a case for issuance of a writ of certiorari for quashing the

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impugned order dated 15th September, 2003, transferring the petitioner from Korba Branch to Hasaud Branch of the respondent-Bank. The petition is liable to be dismissed and the same is accordingly, dismissed. However, there is no order as to costs.

Sd/-
L.C.BHADOO
Judge

Sarma